

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

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AUTHORITY: 38 U.S.C. 501 and 40 U.S.C. 486(c).

SOURCE: 49 FR 12612, Mar. 29, 1984, unless otherwise noted.

Subpart 828.1—Bonds

828.101 Bid guarantees.

828.101-3 Contract clause.

Where a bid bond is required for supplies or services, the phrase “any cost of acquiring the work” in paragraph (e) of the BID GUARANTEE clause in FAR 52.228-1 may be modified to refer to the cost of “supplies,” “services,” etc.

828.101-70 Safekeeping and return of bid guarantee.

(a) Certified checks or other negotiable security furnished as bid security with the three lowest acceptable bids will be retained in a safe. These will be returned by certified mail or in person upon presentation of proper receipt after contract and bonds have been signed and approved.

(b) Certified checks or other negotiable security furnished in support of other than the three lowest acceptable bids should be returned promptly to the respective bidders by certified mail, or in person upon presentation of proper receipt.

(c) Commercial bid bonds are not returned unless specifically requested by the bidders, and, even if requested by any of the three low bidders, are not returned until contract and bonds have been executed by the successful bidder, or all bids have been rejected.

828.106-6 Furnishing information.

The head of the contracting activity as defined in 802.100 shall be the agency designee referenced in FAR 28.106-6(c) to furnish copies of payment bonds to requestors except for contracts awarded by the Office of Facilities. For those contracts, Office of Facilities contracting officers shall be the Department designee.

[54 FR 30045, July 18, 1989]

Subpart 828.3—Insurance

828.306 Insurance under fixed-price contracts.

(a) Term contracts, or contracts of a continuing nature, for ambulance, automobile and aircraft service, will contain the provision in 852.237-71.

(b) *Exceptions.* The provisions of this 828.306 do not apply to emergency or sporadic ambulance service authorized by VA Manual MP-1, part II, chapter 3; or other emergency or sporadic vehicle or aircraft services. *Provided,* That such service is not used solely for the purpose of avoiding entering into a continuing contract. *Provided further,* That such services will be obtained from firms known to carry insurance coverage in accordance with State or local requirements.

Subpart 828.70—Performance and Payment Bonds

828.7000 Bond premium adjustment.

When performance and payment bonds are required, the contract will

contain the clause prescribed in 852.228–70.

Subpart 828.71—Indemnification of Contractors, Medical Research or Development Contracts

828.7100 Scope of subpart.

(a) This subpart sets forth the policies and procedures concerning indemnification of contractors performing contracts which involve a risk of an unusually hazardous nature, covering medical research or development as authorized by 38 U.S.C. 4101.

(b) The authority to indemnify the contractor under this subpart does not create any rights to third parties which would not otherwise exist by law.

(c) As used in this subpart the term “contractor” includes subcontractors of any tier under a contract containing an indemnification provision pursuant to 38 U.S.C. 4101(c)(3)(A).

828.7101 General.

(a) The approval for the indemnification of contractors will be made by the Secretary of Veterans Affairs.

(b) Contracting Officers shall submit requests for approval, together with all available information, to the Deputy Assistant Secretary for Acquisition and Materiel Management (93) for transmittal to the Secretary.

[49 FR 12612, Mar. 29, 1984, as amended at 54 FR 24173, June 6, 1989; 54 FR 30044, July 18, 1989]

828.7102 Extent of indemnification.

(a) Any contract for medical research or development authorized by 38 U.S.C. 4101, the performance of which involves a risk of an unusually hazardous nature, may provide that the Government will indemnify the contractor against either or both of the following, but only to the extent that they arise out of the direct performance of the contract and to the extent not covered by the financial protection required under 828.7103.

(1) Liability (including reasonable expenses of litigation or settlement) to third persons, except liability under State or Federal Workmen's Com-

pensation Acts to employees of the contractor employed at the site of and in connection with the contract for which indemnification is granted, for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

(2) Loss of or damage to property of the contractor from a risk that the contract defines as unusually hazardous.

(b) A contract that provides for indemnification in accordance with this subpart will also provide for:

(1) Notice to the contracting officer of any claim or suit against the contractor for death, bodily injury, or loss of or damage to property; and

(2) Control of or assistance in the defense by the Government, at its election, of such suit or claim for which indemnification is provided in the contract.

828.7103 Financial protection.

(a) The financial protection to cover liability to third persons and loss of or damage to the contractor's property which the contractor is required to have and maintain shall be the maximum amount of insurance available from private sources; however, the Secretary may establish a lesser amount after taking into consideration the cost and terms of private insurance.

(b) The financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such forms to provide the maximum amount required. When the contractor elects to utilize self insurance, proof of such financial responsibility up to the maximum amount required will be furnished the contracting officer prior to award.

PART 829—TAXES

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829.000 Scope of part.

Subpart 829.1—General

829.101 Resolving tax problems.

Subpart 829.2—Federal Excise Taxes

829.202 General exemptions.